



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

SEP 14 2001

400 Seventh St., S.W.  
Washington, D.C. 20590

Susan B. McLaughlin, CHSP, MBA, MT(ASCP)SC  
Codes and Standards Consultant  
American Society for Healthcare Engineering  
of the American Hospital Association  
One North Franklin  
Chicago, IL 60606

Reference No. 00-0343

Dear Ms. McLaughlin:

This is in response to your letter and recent telephone conversations with a member of my staff requesting clarification on the materials of trade (MOT) exception in § 173.6 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You presented two scenarios and inquired whether the MOT's exception applies in these cases.

Your scenarios are paraphrased as follows:

SCENARIO #1: A hospital owns a group of medical clinics and physician offices that are located on different sites than the hospital. Hospital employees using hospital or employee-owned vehicles that operate as private carriers transport tissue specimens from the hospital, clinics, and physician offices to a central lab. The specimens are preserved in formalin, a Class 3, PG III (flammable) liquid. Some of the samples are known or suspected of meeting the definition for an infectious substance (Division 6.2; See § 173.134), but this hazard is destroyed before the sample is offered for transportation.

SCENARIO #2: The private carrier, described in Scenario #1, also transports chemicals (hazardous materials) in combination packages from commercial suppliers to a central location, where the inner packagings are removed, divided, and repackaged in configurations that complete supply orders. The private carriers then transport the hazardous materials for use to the hospital-owned facilities.

Provided all the conditions of § 173.6 are met and the medical clinics and physician offices are owned and operated by the hospital, the answer is yes. One criterion for using the MOT exception, as defined in § 171.8, is that the hazardous material being transported by the private carrier must be used in direct support of its principal business, which may not be the transportation of goods by motor vehicle. The transportation scenarios you presented appear to fulfill this criterion.



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Some of the materials you listed, such as acetic acid, which can be a Class 8 (corrosive) and Class 3 (flammable), PG II liquid, and methanol, which can be a Class 3 and Division 6.1 (poisonous), PG II liquid, may meet more than one hazard class. A material that meets more than one hazard class may be transported as a MOT if the primary hazard class is permitted under § 173.6. As stated in § 173.6(a)(4), a self-reactive (Division 4.1) or poisonous by inhalation material (Division 6.1) is not permitted to be transported as a MOT. See § 173.124(a)(2)(i) and § 173.132(a)(1)(iii), respectively, for these hazard class definitions. Also, § 173.6(a)(1) does not permit a Division 6.2 (infectious substance) material to be transported as a MOT. However, for your information, in a recently published notice of proposed rulemaking, we proposed to revised the MOT provisions to include Division 6.2 materials (66 FR 6942, January 22, 2001).

I hope this information is helpful.

Sincerely,

A handwritten signature in dark ink, appearing to read 'H. Mitchell', is written over the typed name and title.

Hattie L. Mitchell  
Chief, Regulatory Review and Reinvention  
Office of Hazardous Materials Standards

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§173.6  
MOT / Applicability  
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ASHE

AMERICAN SOCIETY FOR HEALTHCARE ENGINEERING®  
of the American Hospital Association

December 4, 2000

Mr. Delmer F. Billings  
Chief, Standards Development  
Office of Hazardous Materials Standards  
U.S. Department of Transportation  
Research & Special Programs Administration  
400 Seventh Street, SW  
Washington, D.C. 20590

Dear Mr. Billings:

I am writing on behalf of the American Society for Healthcare Engineering. ASHE is a personal membership group of the American Hospital Association, representing approximately 6000 professionals in the fields of health care facilities management, safety, security, clinical engineering, planning, design, and construction.

In the health care industry today, many organizations have multiple locations providing service under one management structure. This provides the organization with economies of scale, but introduces several practices that may require compliance with DOT regulations.

Given this scenario, I would request your formal interpretation of the following questions:

Tissue specimens may be removed from patients in multiple locations of an organization, ranging from surgical suites to physicians' offices. Once removed, they are placed in a container of formalin, which is used to preserve the structure of the tissue for pathological examination. These specimens (in formalin) may be transported to a central pathology location. As long as the size of each specimen container is less than eight gallons and the aggregate total of specimens being transported is less than 440 pounds, will these specimens meet the criteria for materials of trade exceptions as defined in 49CFR 173.6?

Chemicals may be purchased in cases and received at a central location. There, the cases may be split, and the bottles shipped to various remote sites. The chemicals are not being sold to the remote locations, rather, this is an intermediate step in the distribution process. Assuming each chemical container is less than eight gallons and the aggregate total of chemicals being transported

is less than 440 pounds, will the following chemicals meet the criteria for materials of trade exceptions as defined in 49CFR 173.67

Acetic Acid  
Chemotherapeutic Agents  
Cleaning Chemicals  
Ethanol  
Formalin  
Glutaraldehyde  
Hydrochloric Acid  
Isopropyl Alcohol

Linseed Oil  
Mercury  
Methanol  
Oil Based Paint  
Pharmaceuticals  
Sodium Hydroxide  
Sodium Hypochlorite  
Xylene

I would appreciate a response at your earliest convenience. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan B. McLaughlin".

Susan B. McLaughlin, CHSP, MBA, MT(ASCP)SC  
Codes and Standards Consultant